

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

6:69cv07941-BB -LFG

RIO CHAMA STREAM SYSTEM

Section 7, Cañones Creek

Subfile Nos. CHCC-003-0012
CHCC-004-0015

MOTION TO AMEND CONSENT ORDERS
IN SUBFILES CHCC-003-0012 AND CHCC-004-0015

COMES NOW the plaintiff State of New Mexico, *ex rel.* State Engineer and moves the Court to amend the Consent Orders entered for Subfile CHCC-003-0012 (El Barranco LLC) (filed February 7, 2008, Doc. No. 9090) and for Subfile CHCC-004-0015 (Mundy Ranch Inc.) (filed January 5, 2009, Doc. No. 9353) and as grounds therefore plaintiff states:

1. The “H.N.D. Ditch” is a private ditch or lateral in the Cañones Creek Subsection that takes water from Cañones Ditch No. 1 approximately 1½ miles below the point of the diversion on Cañones Creek for Cañones Ditch No. 1. The two ditches share the same point of diversion. The water rights under the H.N.D. Ditch were developed under a permit and license approved and issued by the New Mexico State Engineer (OSE No. 1544). The Consent Orders entered in Subfiles CHCC-003-0012 and CHCC-004-0015 failed to distinguish between water rights for lands irrigated by the H.N.D. Ditch and lands irrigated by Cañones Ditch No. 1, a community ditch established prior to 1907.
2. The Consent Orders entered in Subfiles CHCC-003-0012 and CHCC-004-0015 should

be amended to correctly describe the lands irrigated by the H.N.D. Ditch under a final license issued by the State Engineer.

3. Subsections E and F of the Consent Order entered for Subfile CHCC-003-0012 (El Branco LLC) (filed February 7, 2008, Doc. No. 9090) should be amended as follows:

E. IRRIGATED LANDS (Surface Water Only):

Office of the State Engineer File No(s): 1544

Priority: reserved for future determination by court order entered November 19, 2002.

Source of Water: Surface Water of Cañones Creek, a tributary of the Rio Chama.

Purpose of Use: IRRIGATION

Point of Diversion:

Ditch: H.N.D. Ditch

Location: X = 1,548,337 feet Y = 2,114,510 feet
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Within the Tierra Amarilla Grant	35.0 acres
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Total	35.00 acres
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As shown on the attached revised Hydrographic Survey Map for Subfile No. CHCC-003-0012

Amount of Water: reserved for future determination by court order entered November 19, 2002.

F. IRRIGATED LANDS (Surface Water Only):

Office of the State Engineer File No(s): 1544

Priority: reserved for future determination by court order entered November 19, 2002.

Source of Water: Surface Water of Cañones Creek, a tributary of the Rio Chama.

Purpose of Use: IRRIGATION

Point of Diversion:

Ditch: H.N.D. Ditch

Location: X = 1,548,337 feet Y = 2,114,510 feet
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Within the Tierra Amarilla Grant	37.4 acres
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Total	37.4 acres
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As shown on the attached revised Hydrographic Survey Map for Subfile No. CHCC-003-0012

Amount of Water: reserved for future determination by court order entered November 19, 2002.

4. Subsection A of the Consent Order entered for Subfile CHCC-004-0015 (Mundy Ranch Inc.) (filed January 5, 2009, Doc. No. 9353) should be amended as follows:

A. **IRRIGATED LANDS (Surface Water Only):**

Office of the State Engineer File No(s): 1544, 1544-A into RG-1091

Priority: reserved for future determination by court order entered November 19, 2002.

Source of Water: Surface Water of Cañones Creek, a tributary of the Rio Chama.

Purpose of Use: IRRIGATION

Point of Diversion:

Ditch: H.N.D. Ditch

Location: X = 1,548,337 feet Y = 2,114,510 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Within the Tierra Amarilla Grant	239.8 acres
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Total	239.8 acres
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As shown on the attached revised Hydrographic Survey Map for Subfile No. CHCC-004-0015

Amount of Water: reserved for future determination by court order entered November 19, 2002.

5. Revised individual hydrographic survey maps showing the correct name of the ditch that irrigates the lands described above are attached hereto, and should be substituted for the subfile maps attached to the filed Consent Orders for Subfiles CHCC-003-0012 and CHCC-004-0015.

WHEREFORE, the plaintiff State of New Mexico requests the Court to amend the Consent Orders entered for Subfile CHCC-003-0012 (El Barranco LLC) (filed February 7, 2008, Doc. No. 9090) and for Subfile CHCC-004-0015 (Mundy Ranch Inc.) (filed January 5, 2009, Doc. No. 9353) as described in paragraphs 3 ,4 and 5 above.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of July, 2011 I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following parties via first class mail addressed as stated.

/s/ Ed Newville
EDWARD G. NEWVILLE

Mundy Ranch Inc.
P.O. Box 1087
Chama, NM 87520

El Brannco LLC
P.O. Box 2706
Durango, CO 81302